
TITLE 328 UNDERGROUND STORAGE TANK FINANCIAL ASSURANCE BOARD

NOTICE OF READOPTION
IC 13-14-9.5 FIRST NOTICE OF COMMENT PERIOD
LSA Document #10-553

READOPTED OF RULES IN TITLE 328 UNDER IC 13-14-9.5**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on the readoption of rules in Title 328 of the Indiana Administrative Code pursuant to IC 13-14-9.5.

RULES TO BE READOPTED: 328 IAC 1-3-1; 328 IAC 1-3-1.3; 328 IAC 1-3-1.6; 328 IAC 1-3-2; 328 IAC 1-3-3; 328 IAC 1-3-4; 328 IAC 1-3-5; 328 IAC 1-3-6; 328 IAC 1-4-1; 328 IAC 1-4-1.5; 328 IAC 1-4-3; 328 IAC 1-4-4; 328 IAC 1-4-5; 328 IAC 1-5-1; 328 IAC 1-5-2; 328 IAC 1-5-3; 328 IAC 1-6-1; 328 IAC 1-6-2.

AUTHORITY: IC 13-14-9.5.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

This rulemaking is required pursuant to IC 13-14-9.5, which provides for the expiration and readoption of administrative rules. A rule that was adopted under a provision of IC 13 and was in force on December 31, 1995, expires not later than January 1, 2002. All rules adopted after that date under IC 13-14-9, expire on January 1 of the seventh year after the year in which each rule takes effect. The rules listed to be readopted have an expiration date of January 1, 2011. IDEM has chosen to readopt all affected rules at one time rather than readopt each rule separately as its expiration date approaches.

Under IC 13-14-9.5-4, the department or board that has rulemaking authority under Title 13 may readopt all rules subject to expiration under one rule that lists all rules that are readopted by their titles and subtitles only. If no comments are received during this first comment period, IDEM may submit the rule for filing with the Legislative Services Agency under IC 4-22-2-35 and publish notice in the Indiana Register that the agency has readopted the rule.

Please note that there is a rulemaking currently in progress to update the rules listed below. This rulemaking can be found in the Indiana Register under LSA Document #08-684. However, because that rulemaking will not be completed by the end of 2010, it is necessary to take the rules through the mass readoption process under IC 13-14-9.5. This readoption will not affect LSA Document #08-684. If you have specific comments on any of the rules listed, please review the rulemaking documents from the ongoing, substantive rulemaking at LSA Document #08-684 to determine whether your concerns have been addressed or if you would like to provide comments on that rulemaking, which is currently scheduled for preliminary adoption at the September 9, 2010, Underground Storage Tank Financial Assurance Board meeting.

LIST OF RULES**Payment of Corrective Action and Third Party Liability Claims from the Excess Liability Trust Fund**

<u>328 IAC 1-3-1</u>	Fund Access
<u>328 IAC 1-3-1.3</u>	Cost effectiveness of corrective action
<u>328 IAC 1-3-1.6</u>	Preapproval of work
<u>328 IAC 1-3-2</u>	Fund disbursement
<u>328 IAC 1-3-3</u>	Eligibility requirements
<u>328 IAC 1-3-4</u>	Amount of coverage
<u>328 IAC 1-3-5</u>	Costs
<u>328 IAC 1-3-6</u>	Limitation of liability
<u>328 IAC 1-4-1</u>	General procedure for prioritization
<u>328 IAC 1-4-1.5</u>	Transition to the prioritization procedure under this rule
<u>328 IAC 1-4-3</u>	Recategorization of releases
<u>328 IAC 1-4-4</u>	Monthly reimbursement
<u>328 IAC 1-4-5</u>	Discontinuation of prioritization
<u>328 IAC 1-5-1</u>	Applications for payment of reimbursable costs
<u>328 IAC 1-5-2</u>	Fund payment procedures; eligibility preapproval
<u>328 IAC 1-5-3</u>	Deemed approved; reimbursement of costs
<u>328 IAC 1-6-1</u>	Applications for payment of third party liability claims

STATUTORY AND REGULATORY REQUIREMENTS

[IC 13-14-9.5-4](#) requires that the following procedure be followed to readopt rules:

- (1) A notice listing all rules to be readopted by their titles and subtitles shall be submitted to Legislative Services Agency for publication in the Indiana Register.
- (2) If a person submits a written request and a basis for the request during the first comment period that a particular rule be readopted separately from the readoption rule that readopts all rules in one rulemaking, the agency must:
 - (A) readopt that rule separately from the readoption rule; and
 - (B) follow the procedure for adoption of administrative rules under [IC 13-14-9](#) with respect to that rule.
- (3) If no written request is provided within the first comment period, the agency may submit the rule for filing with the Legislative Services Agency under [IC 4-22-2-35](#) and publish notice in the Indiana Register that the agency has readopted the rule.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits comments on specific rules listed above that should be reviewed through the regular rulemaking process under [IC 13-14-9](#). IDEM requests that specific changes and language suggestions accompany the comments.

Mailed comments should be addressed to:

#10-553 (FAB) (Notice of Readoption)
Janet Pittman
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue MC 65-46
Indianapolis, Indiana 46204-2251

Hand delivered comments will be accepted by the IDEM receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-5517, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Development Branch at (317) 232-8922.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by October 1, 2010.

Additional information regarding this action may be obtained from Lydia Kuykendal, Rules Development Branch, Office of Legal Counsel, (317) 234-5345, or (800) 451-6027 (in Indiana).

Nancy King
Chief, Rules Development Branch
Office of Legal Counsel

Posted: 09/01/2010 by Legislative Services Agency

An [html](#) version of this document.